

COBRA update



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The American Recovery and Reinvestment Act of 2009 created a sizeable subsidy for the payment of COBRA continuation premiums for certain terminated employees. The subsidy applies to COBRA-covered employees whose employment was involuntarily terminated between September 1, 2008, and December 31, 2009, along with their qualified beneficiaries (spouses and children). These employees and beneficiaries receive a subsidy of 65 percent of what they would normally pay to continue health coverage under COBRA for periods of coverage beginning March 1, 2009. The subsidy can be applied to any health coverage except health flexible spending account coverage offered through a cafeteria plan. Those who are entitled to the subsidy pay 35 percent of what they otherwise would have to pay for COBRA coverage. Employers pay the remaining 65 percent to the insurer or other coverage provider and then recover the subsidy from the federal government as a credit against their payroll taxes.

Employers are responsible for notifying employees of the possibility of these COBRA subsidies. Employees and beneficiaries have 60 days from when they receive that notice to decide whether to sign up for subsidized COBRA.

On March 19, 2009, the U.S. Department of Labor (DOL) issued model COBRA continuation coverage notices that employers must provide, and that reflect the new nine-month, 65 percent subsidy on COBRA premiums. The notices are available online at www.dol.gov/ebsa/COBRAModelNotice.html.



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There are four types of notices, each tailored to a particular employee, beneficiary, or situation. One model notice is tailored to former employees (and their beneficiaries) who had a COBRA-qualifying event between September 1, 2008, and February 16, 2009, and who either didn't elect COBRA coverage or did elect it but let it lapse. Those who lost their jobs involuntarily (along with beneficiaries) may be eligible for the subsidized COBRA coverage, and employers must give them notice of the possibility of subsidies by April 18.

The DOL says that each model notice "contains information to help satisfy the [American Recovery and Reinvestment Act of 2009's] notice provisions." The general idea is to give notice of the subsidy's availability to everyone who has a qualifying event during the relevant time period (September 1, 2008, to December 31, 2009) so that everyone who may possibly qualify for the subsidy because of involuntary job loss knows about it.

For more information concerning the new COBRA subsidy rules, please contact a member of our Labor and Employment law practice group at (419) 244-6788:

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THE EMPLOYER is not intended to provide legal advice, but is intended as a service to the clients of Bugbee & Conkle, LLP and to alert them to recent developments affecting the employment relationship, with a particular emphasis on the perspective of the employer.

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